

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART 1

SMALL BOAT HARBORS

CHAPTER 234 FEES AND CHARGES

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Historical note: This chapter is based on the schedule of fees and charges of the small boat harbors rules, effective November 5, 1981, and as amended thereafter, under the jurisdiction of the Department of Transportation, Harbors Division. The administrative jurisdiction for recreational boating and related vessel activities were transferred from the Department of Transportation, Harbors Division to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94]

§13-234-1 General statement. (a) The fees and charges relative to the use of state property and facilities at a small boat harbor are:

- (1) Calculated to produce an amount at least sufficient to pay the expenses of operating, maintaining, and managing the facilities and services and the cost including interest, of amortizing capital improvements for boating facilities appropriated after July 1, 1975, including, but not limited to, berths, slips, and related accommodations, exclusive of the costs of constructing, operating, and maintaining general navigation channels, protective structures, and aids to navigation; and
- (2) Fixed with due regard to the primary purposes of providing public recreational facilities and promoting the fishing industry. See sections 200-2 and 200-08, Hawaii Revised Statutes.
- (3) The mooring fees shall be set by categories, schedule A and schedule B, to be determined by the department, provided that:
 - (A) Schedule A shall include existing mooring holders with an annual increase toward schedule B rates of twenty per cent per year; and
 - (B) Schedule B shall apply to all new mooring applicants and transient slips on or after the effective date of these 2010 rule amendments.

(b) Nothing contained in this subchapter shall be construed to limit the authority and power of the department to waive any fees, or to assess any reasonable fees and charges in addition to those specifically provided in this subchapter for trivial or infrequent uses of state property, facilities, or services; if fees for the uses are not contained herein; or as the circumstances may warrant.

(c) The acceptance of payment, or billings therefor, shall not waive the nature of trespass or ratify or permit illegal mooring, docking, storage or

parking. [Eff 2/24/94; am 1/22/10; comp]
(Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS
§§200-2, 200-3, 200-4, 200-10)

§13-234-2 Payment, delinquency and liens. (a)
Security deposit and method of payment:

- (1) Security deposit. A permittee upon being issued a use permit, shall in addition to paying fees and charges as they become due, deposit with the State in legal tender or in such other form as may be acceptable to the State, an amount equal to two months' fees and charges at the rate prescribed in the rules in effect on the date of issuance of the permit as security for the faithful performance on the permittee's part of all the terms and conditions, specified therein. On the effective date of any increase in fees and charges, the permittee shall deposit such additional amount to cover the increase. The State shall refund any excess deposit if the fees and charges are reduced. The deposit will be returned, without interest, to the permittee upon the termination of the permit only if the terms and conditions have been faithfully performed to the satisfaction of the department. In the event the permittee does not so perform, the department may declare the deposit forfeited or apply it as an offset to any amounts owed by the permittee to the State under the use permit, or to any damages or loss caused to the State by the permittee. The exercise of the permittee's option is without prejudice to the right of the State to institute action for debt or damages against the permittee or to take any other or further action against the permittee as may be provided by law or these rules for the enforcement of the rights of the State under the use permit.

- (2) Advance payment required. As a prerequisite to the issuance of a use permit the permittee shall make a security deposit pursuant to section 13-234-2, pay the permit processing fee, one month's fees and charges, and any other fees and charges that may be due and payable to the State; provided that if the effective date of the use permit is other than the first day of the month, charges shall be properly prorated for the balance of the month and these prorated charges shall be paid.
- (3) Method of payment of fees and charges. The following fees and charges shall be paid in advance without notice or demand on the first day of each and every month during the life of the use permit, except that the amounts due for the first month shall be paid prior to the issuance of the permit as described in section 13-234-2:
 - (A) Mooring;
 - (B) Residence;
 - (C) Electricity;
 - (D) Shower;
 - (E) Dry storage;
 - (F) Gear locker;
 - (G) Facilities constructed by others; and
 - (H) Rent and other fixed recurring fees and charges.

(b) Permit processing fees are due and payable in advance.

(c) All other fees and charges are due and payable on the first day of the month after they are incurred.

(d) Fees and charges for the last month shall be properly prorated. If the termination is at the owner's option, unless a written notice of intent to vacate has been received by the department from the boat owner at least thirty days in advance of the termination date as prescribed in section 13-231-9 the owner shall be liable for the full amount of the monthly fees and charges.

(e) All fees and charges shall become delinquent thirty days after they become due and payable. All delinquent accounts will be referred to the Credit Bureau Services if they remain unpaid on the day the account becomes delinquent.

(f) Without prejudice to any other remedy available to the State, interest and, regardless of the amount of the delinquency, a \$25.00 per month service charge shall be assessed on all delinquencies. The interest shall be computed at a rate of one per cent per month, annual percentage rate of twelve per cent, on the the delinquent amount. The interest and service charges shall continue to be assessed until the delinquency is paid in full.

(g) In the event the fees and charges which shall have accrued in favor of the department shall not be paid as provided in these rules, the department may, after reasonable notice, take possession of the vessel, its tackle, apparel, fixtures, equipment, and furnishings, and may retain such possession until all charges then owing and any charges which shall thereafter accrue are fully paid. The remedy thus provided in this section is in addition to and not in lieu of any other remedies which the department may have by virtue of statute or otherwise. [Eff 2/24/94; comp] (Auth HRS §200-10) (Imp HRS §§200-2, 200-3, 200-10)

§13-234-3 Mooring rates. (a) The mooring fees shall be set by categories, schedule A and schedule B, provided that:

- (1) Schedule A shall include existing mooring holders with an annual increase toward schedule B rates of twenty per cent per fiscal year; and
- (2) Schedule B shall apply to all new mooring applicants and transient slips on or after the effective date of these 2010 rule amendments.

The mooring rate schedule in this subsection is per foot of vessel length overall per month effective upon

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the applicant's acceptance of the offer of an available berth. Mooring rates shall apply to the harbor facilities in the following categories: Category "A," Ala Wai; Category "B," Keehi Lagoon, Honokohau, Maalaea, & Lahaina; Category "C," Haleiwa, Heeia Kea, Waianae, Nawiliwili, Port Allen, Kailua-Kona, Keauhou, and Manele; Category "D," Wailoa, Kikiaola, Kaunakakai, North Kawaihae, and Kukuiula; Category "E," South Kawaihae, Hana, & Halo O Lono.

TYPE OF MOORING AND STATE BOATING FACILITIES

A = Ala Wai

B = Keehi Lagoon, Honokohau, Maalaea, & Lahaina

C = Haleiwa, Heeia Kea, Waianae, Nawiliwili, Port Allen, Kailua-Kona, Keauhou, South Kawaihae & Manele

D = Wailoa, Kikiaola, Kaunakakai, North Kawaihae, & Kukuiula

E = South Kawaihae, Hana, Hale O Lono

| Schedule A Mooring Rates: | | | | | |
|--|---------|---------|---------|---------|---------|
| Category | A | B | C | D | E] |
| Along catwalk: | \$5.67 | \$4.32 | \$4.05 | \$3.78 | \$1.62 |
| Bow-stern mooring: | \$4.67 | \$3.82 | \$3.55 | \$3.28 | \$1.62 |
| On state buoy, anchor or cable Minimum fee per month: | \$56.00 | \$47.00 | \$41.00 | \$39.00 | \$21.00 |
| On owner's buoy or anchor: | \$2.97 | \$2.48 | \$2.16 | \$2.00 | \$1.62 |
| Minimum fee per month: | \$39.00 | \$36.20 | \$33.50 | \$31.30 | \$21.00 |
| In harbor basin: | \$4.32 | \$3.68 | \$3.24 | \$3.00 | \$1.62 |
| On state cable, buoy or anchor Minimum fee per month: | \$52.00 | \$43.00 | \$38.00 | \$35.00 | \$21.00 |
| On owner's buoy or anchor: | \$2.92 | \$2.27 | \$2.10 | \$2.05 | \$1.62 |
| Minimum fee per month: | \$35.60 | \$27.00 | \$25.40 | \$23.70 | \$21.00 |

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|--|---------|--------|--------|--------|--------|
| Skiff and dinghy moorings fore and aft, all types: | \$1.95 | \$1.84 | \$1.68 | \$1.57 | \$0.55 |
| Minimum fee per month: | \$26.00 | 23.20 | 21.35 | 18.80 | \$5.25 |
| Work docks (per foot/vessel length/day): | \$0.60 | \$0.55 | \$0.43 | \$0.38 | \$0.32 |
| Minimum fee per month: | \$7.50 | \$6.50 | \$5.40 | \$4.30 | \$3.25 |

| Schedule B Mooring Rates: | | | | | |
|--|---------|---------|---------|---------|---------|
| Category | A | B | C | D | E |
| Along catwalk: | \$9.14 | \$7.79 | \$7.52 | \$7.25 | \$5.09 |
| Bow-stern mooring: | \$5.12 | \$4.17 | \$3.87 | \$3.58 | \$1.75 |
| On state buoy, anchor or cable | | | | | |
| Minimum fee per month: | \$60.00 | \$50.00 | \$45.00 | \$42.00 | \$22.00 |
| On owner's buoy or anchor: | \$3.20 | \$2.68 | \$2.33 | \$2.16 | \$1.75 |
| Minimum fee per month: | \$42.00 | \$39.00 | \$36.00 | \$33.00 | \$22.00 |
| In harbor basin: | \$4.67 | \$4.00 | \$3.50 | \$3.25 | \$1.75 |
| On state cable, buoy or anchor | | | | | |
| Minimum fee per month: | \$56.00 | \$46.00 | \$42.00 | \$38.00 | \$22.00 |
| On owner's buoy or anchor: | \$3.15 | \$2.45 | \$2.27 | \$2.21 | \$1.75 |
| Minimum fee per month: | \$38.50 | \$29.00 | \$27.00 | \$25.00 | \$22.00 |
| Skiff and dinghy moorings fore and aft, all types: | \$2.10 | \$2.00 | \$1.81 | \$1.70 | \$0.60 |
| Minimum fee per month: | \$28.00 | \$25.00 | \$23.00 | \$20.00 | \$5.50 |
| Work docks (per foot/vessel length/day): | \$0.65 | \$0.60 | \$0.46 | \$0.41 | \$0.35 |
| Minimum fee per month: | \$8.00 | \$7.00 | \$6.00 | \$5.00 | \$3.50 |

(b) The mooring rate schedule in subsection (a) shall apply to single-hulled vessels, except as otherwise provided in this section, or in sections 13-234-5, 13-234-7 and 13-234-25.

(c) A multi-hulled vessel shall be charged mooring fees in proportion to berths used in increments of one, one and one-half, or two times the fee prescribed in subsection (a) for a single-hulled vessel of equal length.

(d) When more than one vessel occupies a single berth end to end, the charge shall be computed at the rate provided in subsection (a).

(e) Except for fees for work docks, which set out the minimum charges per day, the amounts set out in the mooring rate schedules in subsection (a) are the minimum charges per month. [Eff 2/24/94; am 12/16/06; am 1/22/10; comp] (Auth: HRS §§200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-6, 200-10, 200-12, 200-22, 200-24)

§13-234-4 Mooring rates for offshore mooring and anchoring. (a) The following mooring rate schedule set forth in paragraph (1) shall become effective on the first day of the first full month occurring after the effective date of the 2006 amendments to this section and shall be increased twice thereafter, as set forth in paragraph (2) and (3) on the first day of the fiscal year(s) in which a CIP bond issue is to be funded for the small boat facilities. The mooring rate schedule is per foot of vessel length overall per month:

| (1) Offshore mooring and anchoring rates as of the first day of the first full month occurring after the effective date of the 2006 amendments to this section: | | |
|---|--------------------------------|-----------------------------------|
| Vessel Length Overall | On State Buoy, Anchor or Cable | On Owner's Own Buoy, or at Anchor |
| 0 - 30' | \$1.31 | \$0.88 |
| 31 - 40' | \$1.44 | \$1.00 |
| 41 - 50' | \$1.56 | \$1.13 |
| 51 - 60' | \$1.69 | \$1.25 |

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| 61 - 70' | \$1.81 | \$1.38 |
| 71 - 80' | \$1.94 | \$1.50 |
| 81 - 90' | \$2.06 | \$1.63 |
| over 90' | \$2.19 | \$1.75 |
| Minimum monthly fee: | \$31.25 | \$20.63 |

(2) Offshore mooring and anchoring rates that will become effective on the first day of the first financial year, after the rates in paragraph (1) become effective, in which a CIP bond issue is funded for the small boat facilities:

| Vessel Length Overall | On State Buoy, Anchor or Cable | On Owner's Own Buoy, or at Anchor |
|-----------------------|--------------------------------|-----------------------------------|
| 0 - 30' | \$1.41 | \$0.95 |
| 31 - 40' | \$1.56 | \$1.08 |
| 41 - 50' | \$1.68 | \$1.22 |
| 51 - 60' | \$1.83 | \$1.35 |
| 61 - 70' | \$1.95 | \$1.49 |
| 71 - 80' | \$2.10 | \$1.62 |
| 81 - 90' | \$2.22 | \$1.76 |
| over 90' | \$2.37 | \$1.89 |
| Minimum monthly fee: | \$33.75 | \$22.28 |

(3) Offshore mooring and anchoring rates that will become effective on the first day of the second financial year, after the rates in paragraph (1) become effective, in which a CIP bond issue is funded for the small boat facilities:

| Vessel Length Overall | On State Buoy, Anchor or Cable | On Owner's Own Buoy, or at Anchor |
|-----------------------|--------------------------------|-----------------------------------|
| 0 - 30' | \$1.52 | \$1.03 |
| 31 - 40' | \$1.68 | \$1.17 |
| 41 - 50' | \$1.82 | \$1.32 |
| 51 - 60' | \$1.97 | \$1.46 |
| 61 - 70' | \$2.11 | \$1.61 |
| 71 - 80' | \$2.26 | \$1.75 |
| 81 - 90' | \$2.40 | \$1.90 |
| over 90' | \$2.56 | \$2.04 |
| Minimum monthly fee: | \$36.45 | \$24.06 |

(b) The fee for barges, platforms, and commercial vessels having no operating means of propulsion shall be two times the rate listed in subsection (a).

(c) The fee for vessels anchored or moored without a permit issued by the department shall be at the rate specified in section 13-234-5.

(d) Persons issued a mooring permit under this section shall be entitled to the use of any designated dinghy mooring area at no charge. [Eff 2/24/94; am 12/16/06; comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

§13-234-5 Mooring fees for vessels assigned temporary moorings or occupying moorings without permission. (a) Persons assigned a mooring for a temporary period shall make the security deposit and pay mooring fees as prescribed in this chapter.

(b) Those assigned a mooring for a period of thirty days or less shall not be required to make the security deposit as provided in section 13-234-2, but shall be required to pay fees in advance.

(c) The fees prescribed in subsection (d) shall apply for the entire period the vessel is in the state boating facility.

(d) The mooring fees for a vessel assigned a mooring for thirty days or less shall be as provided in section 13-234-3 or 13-234-4, plus thirty per cent for each twenty-four hours or any fraction of that time.

(e) The mooring fees for a vessel moored in a state boating facility without permission of the department or in violation of section 13-231-17 shall be:

| Length of stay | Fee |
|---------------------|--|
| (1) 30 days or less | 1-1/2 times the fees stated in subsection (d); |
| (2) 31-60 days | 2 times the fees stated in subsection (d) for the period over 30 days; |

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| (3) More than 60 days | 3 times the fees stated in subsection (d) for the period over 60 days. |
|-----------------------|--|

(f) The fees for a vessel moored in a state boating facility work dock area in violation of this section or section 13-231-17 shall be:

| Length of stay | Fee |
|-----------------------|--|
| (1) 30 days or less | 1-1/2 times the fees stated in subsection (d); |
| (2) 31-60 days | 2 times the fees stated in subsection (d) for the period over 30 days; |
| (3) More than 60 days | 3 times the fees stated in subsection (d) for the period over 60 days. |

(g) In addition to any civil remedy or criminal action available to the department, vessels moored without permission shall be liable for the payment of fees chargeable to the moorage. The acceptance of the payment shall not waive the nature of trespass or ratify or permit the unlawful or illegal mooring. [Eff 2/24/94; am 12/16/06; am 1/22/10; comp]
(Auth: HRS §§200-4, 200-6, 200-10, 200-12, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-12, 200-22, 200-24)

§13-234-6 Fees for vessel absent for more than fourteen days. Any holder of a use permit who has applied as prescribed in section 13-231-11 to retain the permit to use the assigned berthing space and any other related use permits upon the permittee's return, and whose application has been approved by the department, shall continue, during any absence of thirty days or less from the assigned berth, to pay fees for the berthing space and any other use permits designated in the application at the rate established in section 13-234-3 and other applicable sections of these rules. Where the absence permitted under

section 13-231-11 exceeds thirty days, then for the period in excess of thirty days the mooring fees for the berth retained, and the fees prescribed in these rules for any facilities or services actually utilized by the permittee during the permittee's absence, shall be due and payable to the department. During such absence, the department may issue a temporary use permit for the use of the berthing space by another vessel and charge mooring fees from the temporary permittee at the rate prescribed in these rules and credit a portion of such fees collected to the account of the permanent permittee amounting to fifty per cent of the regular mooring fee, prorated on a daily basis, for the period that temporary mooring fees are collected for the use of the berth. [Eff 2/24/94; comp] (Auth: HRS §200-10) (Imp: HRS §§200-10, 200-12)

§13-234-7 Mooring fee for vessels owned by nonresident. The mooring fee for vessels owned by nonresidents, assigned a permanent berth in any state small boat harbor, shall be ten per cent higher than the mooring rate schedule in section 13-234-3 (a) and (b)(1). [Eff 2/24/94; comp] (Auth: HRS §200-10) (Imp: HRS §§200-10, 200-12)

§13-234-8 Stay-aboard or principal habitation fee. (a) The owner of a vessel moored in a state small boat harbor and authorized to be used as a place of principal habitation, shall pay, in addition to mooring or any other applicable fee or charge, a principal habitation fee computed according to vessel length (not vessel length overall) which is:

- (1) \$5.25 per foot of vessel length per month if the owner is a state resident; and
- (2) \$7.80 per foot of vessel length per month if the owner is a non-resident;

provided that for any calendar year beginning after January 1, 1987 upon thirty days prior written notice from the department, the principal habitation fees

established by this subsection shall be increased based on this increase in the annual cost of living index (U. S. Department of Labor, U. S. City Average Urban Consumer Price Index for "all items"), but the increase for any calendar year shall not exceed five per cent.

(b) The owner or operator of a transient vessel, or visiting vessel, shall pay a stay-aboard fee of \$2.00 per person staying aboard a vessel, in addition to mooring or any other fees and charges, for each and every night that any person remains on board the vessel while the vessel is moored in a state small boat harbor. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

§13-234-9 Stay-aboard or principal habitation fee for offshore mooring or anchoring. The owner of a vessel or houseboat moored or anchored outside a small boat harbor and authorized to be used as a principal place of habitation or for staying aboard shall pay, in addition to any other applicable fee or charge, a principal habitation fee, or a stay-aboard fee as appropriate, which shall be one-half the rate specified in section 13-234-7. [Eff 2/24/94; comp] (Auth: HRS §§200-1, 200-2, 200-6, 200-10) (Imp: HRS §§200-1, 200-2, 200-6, 200-10)

§13-234-10 Electricity fee. The monthly fee for the use of electricity when furnished by the State at a small boat harbor shall be as follows:

- (1) When no person lives aboard....\$5.75
- (2) When no person lives aboard
but electricity is used for
refrigeration..... \$11.00
- (3) When persons live aboard
but electricity is not used
for cooking or refrigeration. \$11.00
- (4) When persons live aboard
and use electricity for

cooking or refrigeration..... \$25.00
[Eff 2/24/94; comp] (Auth:
HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS
§§200-2, 200-3, 200-4, 200-10)

§13-234-11 Shower fee. Showers with hot water, when provided, are intended primarily for the use of persons having vessels moored in the small boat harbor. If sufficient shower facilities are available, the department may permit, if reasonable under the circumstances, persons who are authorized to conduct business on small boat harbor premises pursuant to section 13-231-51 to utilize such facilities. A monthly fee of \$6.00 shall be assessed for each such persons using the showers, except those under the age of four and those paying residence service fees. No persons shall utilize the aforementioned shower facilities unless that person has secured a use permit from the department authorizing use of the facilities. Each person authorized by the department to utilize the shower facilities, except those under the age of four, may secure one shower facility key. The person shall deposit the following amount with the State prior to receiving the key, as security for prompt return of the key upon termination of the use permit:

- (1) \$20 if the use permit is valid for a period of more than ninety days.
- (2) \$30 if the use permit is valid for a period of ninety days or less.

This deposit shall be forfeited in the event the permittee does not return the key to the department on or before the termination of the use permit. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

§13-234-12 Dry storage and vessel repair. (a)
A person, holding a valid use permit allowing the person to moor a vessel in a small boat harbor, may be

authorized by the department to use a designated location on land within such harbor for a period not to exceed ten days in any calendar year to refurbish or repair such vessel without payment of a dry storage fee; provided that suitable space is available and any such storage will not unduly interfere with maximum and efficient public utilization of a small boat harbor facilities. The permittee shall however, not be entitled to a reduction in the mooring fees applicable to the temporarily vacated berth. Saturdays, Sundays, and state holidays shall be excluded in the computation of the ten days free time.

(b) Vessels, vessels upon trailers, or empty boat trailers may, upon approval of the department be stored on land at a small boat harbor; provided that suitable space is available and such storage will not unduly interfere with maximum and efficient public utilization of small boat harbor facilities. Except as provided in subsection (a), the fee for the storage of vessels or boat trailers on land at a small boat harbor shall be as follows:

| | <u>Ala-Wai and Keehi Boat Harbors</u> | <u>All others</u> |
|--|---|-------------------|
| (1) Vessels stored on land, per foot of vessel length, cradle length, or trailer length, whichever is greater per month | | |
| paved area | \$1.25 | \$1.15 |
| unpaved area | \$1.15 | \$1.00 |
| (2) Empty boat trailer per month | \$20.00 | \$15.00 |
| (3) Minimum monthly charge for vessel storage | \$20.00 | \$15.00 |
| (4) The charges for one-half month or less shall be one-half of the monthly rate. | | |

(c) Boating equipment or other items used in connection with boats moored in small boat harbors,

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upon approval of the department, may be stored at such harbors if it can be done without unduly interfering with small boat harbor operations. The charges for use of such storage space shall be:

| | <u>Ala-Wai and Keehi Boat Harbors</u> | <u>All others</u> |
|---|---|-------------------|
| (1) Open storage on paved areas, per square foot per month | \$.35 | \$.25 |
| (2) Open storage on unpaved areas, per square foot per month | \$.25 | \$.15 |
| (3) The minimum charge per month | \$15.00 | \$8.00 |
| (4) For less than one-half month, the charge will be one-half of the above full monthly rate. | | |

(d) A person who does not hold a valid mooring permit for a particular small boat harbor may be permitted by the department to use a designated location on land within that harbor for a period not to exceed six months to repair or refurbish a vessel, provided that suitable space is available and such storage will not unduly interfere with maximum and efficient public utilization of small boat harbor facilities. The charge shall be the same as specified in subsection (c).

(e) The department shall not be responsible for any claim for loss or damage by reason of theft, fire or any other cause in connection with any personal property stored in the designated storage area. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

§13-234-13 Gear locker fee. (a) The charge for the use of gear lockers provided by the State shall be:

- (1) Standard wood locker .. \$5.50 per month
- (2) Triangular fiberglass
locker \$3.00 per month

(b) In the event that permission is given by the department for a boat owner to provide a personal gear locker pursuant to section 13-232-44, the charge, while the permit remains in effect, shall be thirty per cent of the rate established in subsection (a).
[Eff 2/24/94; comp] (Auth: HRS §200-10) (Imp: HRS §§200-2, 200-12)

§13-234-14 Mooring fees - facilities constructed by others. Where a mooring facility is constructed by others pursuant to section 13-232-43 the mooring rate shall be thirty per cent of the fee established in section 13-234-3 for a period of time as established by the department which will allow the permittee to amortize the capital cost of the improvements. [Eff 2/24/94; comp] (Auth: HRS §200-10) (Imp: HRS §§200-2, 200-12)

§13-234-15 Waiver of fees. The department reserves the right to waive or reduce any fees or charges contained in this chapter. [Eff 2/24/94; comp] (Auth: HRS §200-10) (Imp: HRS §§200-2, 200-4, 200-7, 200-12)

§13-234-16 Permit processing fees. The charge for the processing of a use permit shall be as follows:

- (1) Initial issuance of permanent permit for docking, mooring, or anchoring a vessel (see section 13-231-3) .. \$5; initial issuance of commercial permit .. \$25;

- (2) Renewal of permanent permit for docking, mooring, or anchoring a vessel (see section 13-231-5) .. \$5; renewal of commercial permit .. \$15;
- (3) Revision of permit:
 - (A) At owner's request .. \$5; or
 - (B) By department's action (see section 13-231-7) .. no charge; and
- (4) All other use permits listed in section 13-231-3:
 - (A) Initial issuance \$5; and
 - (B) Renewal of permit \$3.

If a permittee utilizing any property or facility fails to renew a use permit on or before the date on which it expires, the applicable renewal fee plus a penalty fee of \$1 per month shall be collected from the permittee for each month or fraction of a month the permittee is late in applying for renewal of a permit and any other penalty fees provided by these rules. [Eff 2/24/94; comp] (Auth: HRS §200-10) (Imp: HRS §§200-2, 200-12)

§13-234-17 Fees for vessels moored at yacht club berths and other areas covered by specific agreements. Owners of vessels moored or anchored in areas or portions of state small boat harbors covered by specific agreements or other arrangements with the State, as in the case of yacht clubs and the like, and who are paying mooring charges to the lessees or other parties of such agreements or arrangements, shall be exempt from the mooring fees set out in section 13-234-3; provided that the owners shall enter into an agreement and obtain use permits as required in section 13-231-3 and all fees and charges other than mooring fees shall be assessed as the same shall properly apply. [Eff 2/24/94; comp] (Auth: HRS §200-10) (Imp: HRS §§200-2, 200-12)

§13-234-18 Excessive water usage fee. A fee of \$10 per day for each day or fraction thereof will be charged for excessive use or waste of fresh water; such as the use of water for the prolonged operation of ejectors to pump water out of vessels and permitting hoses to run unattended. [Eff 2/24/94; comp] (Auth: HRS §200-10) (Imp: HRS §§200-2, 200-12)

§13-234-19 Parking fees - reserved space. (a) The fee for parking a vehicle in a space reserved by the department for the exclusive use of any person shall be as follows:

- (1) Reserved parking, covered \$30 per month.
- (2) Reserved parking, uncovered \$20 per month.

(b) The establishment of reserved parking spaces normally does not permit maximum efficient public utilization of parking facilities. Therefore, parking spaces shall not be designated for the exclusive use of any person, other than when necessary for the parking of government or other official vehicles, unless suitable space is available and such use will not interfere with maximum and efficient public utilization of small boat harbor facilities. Any reserved spaces established shall be assigned on a "first-come, first-served" priority system. The following shall be eligible for assignment to any reserved parking space that is established for use by the public:

- (1) A person holding a valid use permit authorizing the person to moor that person's vessel at the small boat harbor, the vessel owner, co-owner, and master; and
- (2) An owner or employee of a business or organization operating under the provisions of a lease or other agreement authorizing the owner or employee or the business or organization to engage in a business or commercial activity at the small boat harbor.

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(c) No person shall park a vehicle in a reserved parking space so designated by a posted sign unless authorized by the department. [Eff 2/24/94; comp
] (Auth: HRS §§200-2, 200-4, 200-7)
(Imp: HRS §§200-2, 200-4, 200-7)

§13-234-20 Salvage fee. The owner of a vessel in danger that is saved, rescued, or secured pursuant to section 13-231-19 shall be charged a fee for services and materials based on prevailing commercial rates plus ten per cent. [Eff 2/24/94; comp
] (Auth: HRS §§200-2, 200-4, 200-7)
(Imp: HRS §§200-2, 200-4, 200-7)

§13-234-21 Principal habitation application fee. Prior to filing or renewing an application for the issuance of a principal habitation permit as provided in section 13-231-27(a)(2) the applicant shall pay to the department an application fee of \$15. The fee is not refundable. [Eff 2/24/94; comp
] (Auth: HRS §200-10) (Imp: HRS §§200-10, 200-12)

§13-234-22 Exemption from fee differential. Nonresident members of the United States Armed Forces on active duty stationed or on order to be stationed in Hawaii and their dependents are exempted from payment of the nonresident fee differential prescribed in this subchapter during the period they are on active duty and stationed in Hawaii if they submit relevant proof to the department as may be necessary to the determination of such status as prescribed in section 13-230-16. [Eff 2/24/94; comp
] (Auth: HRS §200-10) (Imp: HRS §§200-2, 200-10, 200-12)

§13-234-23 Application fee for moorage. If all suitable berths in a small boat harbor have been allocated to others a person may apply, subject to the payment of application fees, for a future vacancy or

to move in the future to another berth in the same harbor, as prescribed in section 13-231-5. In small boat harbors where categories of berths have been established pursuant to section 13-231-5 only a single application fee or fee for renewal of an existing application shall be levied if any applicant applies for or renews applications for more than one category of berth, provided that all applications were submitted on the same date.

- (1) The application fee or fee for renewal of an existing application for a regular mooring permit shall be \$15 for any person who is a resident and \$100 for all other persons.
- (2) The application fee or fee for renewal of an existing application for a temporary mooring permit or an application to transfer in the future to another berth with the same characteristics in the same harbor shall be \$5.
- (3) No application for moorage, renewal of such application, or for berth transfer shall be accepted until the applicant has paid the prescribed fee. The fee is not refundable, provided the application for moorage fee paid, less a \$5 service charge, shall be returned to an applicant if the department rejects the applicant's application or a renewal thereof pursuant to section 13-231-82. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-10) (Imp: HRS §§200-10, 200-12)

§13-234-24 Fee for residency status appeal; refund if status determination reversed. The fee for filing an appeal concerning classification as a nonresident as provided in section 13-230-2 shall be \$15. No petition shall be accepted until the prescribed fee has been paid. This fee shall be promptly refunded if as a result of the appeal, the department reverses its original determination that the petitioner was a nonresident. In addition, in

such instances any nonresident fee and charge differential paid by the petitioner shall be promptly refunded for the appropriate period. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-10) (Imp: HRS §§200-10, 200-12)

§13-234-25 Fees for commercial vessels using state boating facilities, Kaneohe Bay ocean waters, and beaches of the State. (a) Notwithstanding the provisions of section 13-234-3, the following fees and charges shall be assessed for services provided by the department relating to mooring in or using state boating facilities, Kaneohe Bay ocean waters and beaches of the State:

- (1) The fee per month per vessel for a permittee with a commercial activity permit and regular mooring permit who moors in and uses a small boat harbor or any of the facilities in the harbor shall be the greater of two times the mooring fees as provided in section 13-234-3 or three per cent of the monthly gross receipts. In addition to the mooring fee as provided in this section and section 13-234-3, the permittee shall also pay fees and charges in the amounts prescribed in these rules for any other facilities and services utilized in the small boat harbor.
- (2) The fee per month for a permittee with a commercial activity permit for a boat ramp, wharf, or other state boating facility, except a state small boat harbor, shall be the greater of \$200 per month or three per cent of the monthly gross receipts, as of the first day of the first full month occurring after the effective date of the 2006 amendments to this section. The single fee assessed for the use of a state boat ramp shall entitle the permittee to use any other state boat ramp on the same island without an additional charge, except for

those boat ramps listed in section 13-231-67. The department shall provide, upon issuance of a commercial activity permit for a state boat ramp, a set of trailer decals that shall be displayed on each side of the forward end of the trailer tongue.

- (3) For permittees with a commercial activity permit only, the fee per month, for the use of a state boating facility, Kaneohe Bay ocean waters or beaches of the State, shall be the greater of \$200 or three per cent of the monthly gross receipts as of the first day of the first full month occurring after the effective date of the 2006 amendments to this section.
- (4) The report of gross receipts shall be received by the department not later than the end of the month following the reported month and shall be submitted on a form acceptable to the department. Unless otherwise provided by statutes, failure to submit the report of gross receipts as required for a period in excess of sixty days shall be cause for automatic revocation of the commercial activity permit.
- (5) For permittees who have been issued a valid commercial activity permit for the use of more than one small boat harbor, the permittee shall designate the small boat harbor of principal use, and the percentage of monthly gross receipts described in this section shall be paid to that account. The fees for commercial activity permits issued for the other small boat harbors shall be the minimum amount specified in paragraph (2) or paragraph (1) for those permittees with small boat harbor mooring permits.
- (6) For permittees issued a temporary mooring permit and a commercial activity permit, the fee per month shall be the greater of the temporary mooring fees required by section 13-234-5 or three per cent of the monthly

gross receipts as of the first day of the first full month occurring after the effective date of the 2006 amendments to this section.

- (7) For the purpose of this section, until the first day of the first full month occurring after the effective date of the 2006 amendments to this section, the fees existing prior to the effective date shall remain in full force and effect.

(b) When the commercial activity permit is issued, the department shall also provide a set of commercial trailer decals for commercial trailered vessels, at no charge, which shall be displayed on each side of the forward end of the trailer tongue.

(c) Vessels used by a commercial activity permittee for shuttle operations transporting passengers to and from the commercial activity permittee's primary operating vessel and vessels under contracts to perform shuttle operations for passenger cruises, which moor at a state boating facility, shall be required to have a designated state boating facility of principal use and the fee charged under this section shall be paid to the principal use account.

(d) The department may conduct a financial audit of the records of any commercial activity permit account to determine the accuracy of reported gross receipts or inspect any other financial information, to and including Gross Excise Tax records directly related to the enforcement of these rules after providing notice, as described in section 13-230-6, not less than thirty days prior to the audit.

(e) The department may, by lease, permit, or mooring permit, in accordance with state statutes grant the use or possession of state boating facilities. The leases and permits shall provide for payments of rental, fees and charges, and other conditions in accordance with law, in lieu of and notwithstanding the provisions for fees specified in these rules. [Eff 2/24/94; am 12/16/06; comp
] (Auth: HRS §§200-2, 200-3, 200-4,

200-10, 200-22, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-10, 200-22, 200-24, 200-39)

§13-234-26 Passenger fees. (a) Any passenger or cruise vessel which is used for private gain and does not have a valid mooring permit or commercial permit and which uses state small boat harbors property or facilities shall pay the following fees in addition to any other fees required by this chapter:

- (1) Per passenger (includes in transit)--embarking to or from shore to ship.....\$2
- (2) Passengers in transit on a vessel on a continuous trip whose point of origin and termination is a state small boat harbor, a total of disembarking and embarking at each port per passenger.....\$1.50
- (3) Passengers embarking and disembarking on occasional and infrequent use on special charter when approved in advance of voyage as provided in section 13-231-57(c) (3).....\$1.50

(b) Any passenger vessel using a dock, pier or wharf in a state small boat harbor for disembarking and embarking passengers by means of any boat or lighter while moored offshore, shall pay a fee per passenger for disembarking and embarking at each small boat harbor as follows:

- (1) Passenger vessels engaging only in interisland commerce:.....\$.30
- (2) Passenger vessels engaging in international or inter-state commerce:.....\$1.00

Vessels operated by a federal or state agency are exempt from the provisions of this subsection.

(c) A report shall be filed with the department on a form acceptable to the department within thirty days after the date of embarking or disembarking of passengers over state facilities and the charges due shall be remitted along with the report. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

§13-234-27 Fee for copies of rules. The fee per copy of these rules shall be \$5. A copy of these rules shall be furnished to any person applying for the same upon payment of the prescribed fee, except no fee shall be charged for copies furnished to federal, state, or local governmental agencies or organizations, or for revisions to these rules. The fee may be waived in other instances at the discretion of the chairperson when a waiver is in the public interest. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-234-28 Negotiable instruments; service charge. (a) The service charge for any dishonored check, draft, certificate of deposit or other negotiable instrument is \$12.

(b) Payment to and acceptance by the department of the service charge for a check, draft, certificate of deposit or other negotiable instrument, shall not be construed as a waiver of any violation of the Hawaii Penal Code, chapters 701 to 713, Hawaii Revised Statutes, or of these rules. [Eff 2/24/94; comp] (Auth: HRS §200-2) (Imp: HRS §200-2)

§13-234-29 Vessel inspection fee. The fee for a vessel inspection performed by the department prior to the issuance or reissuance of a regular mooring permit shall be \$15. The fee is not refundable. A vessel owner shall make an appointment with the harbor agent not less than five working days prior to having the vessel inspected. A fee of \$10 shall be charged if notice of cancellation by the vessel owner is not given to the harbor agent not less than two working days prior to the scheduled inspection. The fee for vessels exempted from numbering in section 13-231-2, Hawaii Administrative Rules, and open skiffs and dinghies less than thirteen feet in length shall be \$5. [Eff 2/24/94; comp] (Auth: HRS §200-10) (Imp: HRS §200-10)

§13-234-30 Application fee for approved marine surveyor. Prior to filing or renewing an application for approved marine surveyor by the department as provided in section 13-231-45, the applicant shall pay to the department an application fee of \$15. The fee is not refundable. [Eff 2/24/94; comp]
(Auth: HRS §200-13) (Imp: HRS §200-13)

§13-234-31 Fee for commercial use of boat launching ramps and other boating facilities. The fee for the use of state launching ramps, wharves, or other state boating facilities except state small boat harbors shall be \$75 per month or two per cent of gross receipts, whichever is greater. The single fee assessed for the use of a state launching ramp shall entitle the permittee to use any other state launching ramp on the same island without additional charge, except for those launching ramps listed in section 13-231-67. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§226-2, 200-4)

§13-234-32 Small boat harbor facility key deposits. (a) Each person authorized to secure a shower facility key shall deposit the following amount with the State as security for prompt return of the key upon termination or expiration of the use permit.

- (1) \$30 if the use permit is valid for a period of more than thirty days; or
- (2) \$50 if the use permit is valid for a period of thirty days or less;

(b) Each person authorized to secure a key for other harbor facilities, such as security gates or restrooms, shall deposit the following amounts with the department prior to receiving the key:

- (1) \$10 if the use permit is valid for more than thirty days; or
- (2) \$25 if the use permit is valid for thirty days or less.

(c) The key deposit shall be forfeited in the event the permittee does not return the key to the

department on or before the termination of the use permit, or when the permittee is required to replace a key which has been lost or stolen. [Eff 2/24/94; comp
] (Auth: HRS 200-10) (Imp: HRS 200-10,
200-12)

§13-234-33 Business transfer fee. (a) Whenever a stockholder or owner of an interest in a corporation or other business which has been issued a commercial permit sells or transfers ten per cent or more of the stock or interest in the firm, either as a single transaction or an aggregate of several transactions, to any person who is not a stockholder or owner of record on the effective date of these rules, the seller or person transferring such stock or interest shall pay to the department a business transfer fee based on the passenger-carrying capacity of the vessel, and shall be as follows:

- (1) Vessels used for bare boat (demise) and sailing charters carrying six or less passengers.....\$ 2,500
- (2) Vessels registered by the State or documented by the U. S. Coast Guard to carry six passengers or less, used for charter fishing or other commercial purpose.....\$ 5,000
- (3) Vessels certified by the U. S. Coast Guard to carry seven to twenty-five passengers.....\$10,000
- (4) Vessels certified by the U. S. Coast Guard to carry twenty-five to forty-nine passengers.....\$15,000
- (5) Vessels certified by the U. S. Coast Guard to carry fifty to seventy-four passengers.....\$25,000
- (6) Vessels certified by the U. S. Coast Guard to carry seventy-five to ninety-nine passengers.....\$40,000
- (7) Vessels certified by the U. S. Coast Guard to carry one hundred to one hundred forty nine passengers.....\$75,000

(b) When less than one hundred per cent of the interest in the corporation is transferred, the business transfer fee shall be based upon a like percentage of the business transfer fee provided in subsection (a). [Eff 2/24/94; comp]
(Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-234-34 User Fee for recreational use of state boat launching ramps. (a) An annual boat ramp decal user fee of \$40 shall be paid by owners of trailered vessels using state boating facilities for recreational and fishing purposes to gain access to the waters of the State for the purpose of defraying costs of maintenance of the state boating facilities and use of fresh water. The \$40 boat ramp decal fee shall become effective on the first day of the first full month occurring after the effective date of the 2006 amendments to this section and shall increase to \$45 effective on the first day of the twelfth calendar month following the effective date of the \$40 fee, and shall again increase to \$50 effective on the first day of the twelfth calendar month following the effective date of the \$45 fee. Until the effective date of the \$40 fee, the fee provided in this section prior to the effective date of the 2006 amendments to this section shall remain in full force and effect.

(b) In addition to the vessel registration fee, the annual boat ramp decal fee described in subsection (a) shall be paid in full at the time of registration or registration renewal.

(c) The recreational owner shall be furnished a set of decals for the trailer by the department upon payment of this fee. Current boat ramp decals shall be affixed to each side of the forward end of the trailer tongue whenever the vessel trailer is operated or stored at a state boating facility.

(d) Notwithstanding subsection (c), a boat dealer or manufacturer shall be allowed to place the ramp decal on the dashboard of the vehicle used to transport the demonstration vessel. [Eff 2/24/94; am

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12/16/06; comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-234-35 Fees for signs and ticket booths.

(a) The fee for commercial signs in small boat harbors shall be \$1 per square foot per month with a minimum fee of \$5 per month.

(b) The fee for ticket booths in small boat harbors shall be \$250 per month. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

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DEPARTMENT OF LAND AND NATURAL RESOURCES

Chapter 234, Hawaii Administrative Rules, on the
Summary Page dated _____ was compiled on
_____ following a public hearing held on
_____ before the Board of Land and Natural
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The compilation of Chapter 234 shall take effect
ten days after filing with the Office of the
Lieutenant Governor.

William J. Aila, Jr., Chair
Board of Land and Natural
Resources

APPROVED:

Neil Abercrombie
Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed